



To: Sen. MacDonald, Rep. Lawlor and members of the Judiciary Comm.

From: Jon Anderson, Senior Title Counsel

Re: S.B. 491

Date: March 25, 2010

Background

When an attorney, title searcher or other real estate professional is conducting due diligence on preparation for a real estate purchase, financing or other transaction involving a parcel of real property, an essential part of the investigation is determining the payment status of any taxes, assessments, liens or other charges. Some of these are assessed against the real estate by the municipality where the property is located, others are assessed or imposed by other public or even private entities in exchange for water, sewer or other services. Existing practice involves inquiring about the current status of these payment obligations at the municipal tax collector's office as well as the offices of any other entities that assess these charges, such as regional water authorities, regional sewer districts and special tax or fire districts. In many cases the response to these inquiries is verbal, and in other cases the response may consist of a current bill or statement; but whether the response is verbal or written, sometimes the information is incorrect. Despite the reliance of purchasers, lenders and others on the information, municipalities, water and sewer authorities and special tax districts will often follow the property, and seek payment of previously undisclosed or erroneously reported charges. The purpose of this bill, which is patterned after a statute in Massachusetts, is to provide (1) a means of obtaining a reliable and recordable certificate documenting taxes, assessments or charges affecting a particular parcel of real estate; (2) a source of revenue for municipalities and other entities in the form of the fee payable to the provider of the certificate in exchange for the information; and (3) a means of discovering any delinquent taxes or other outstanding charges due to the municipality or other entity providing one of these certificates prior to the date of a property transfer and, by doing so, encouraging a more timely payment of these taxes, assessments or other charges to the municipality and/or other entity.

Raised Bill No. 491

The bill provides a means for obtaining reliable information about the outstanding taxes and charges affecting real estate by establishing a procedure for a person to make a written request for a certificate containing the information. The request is directed to the tax collector, and under the request may be made to a municipal tax collector as well as the revenue collector for any regional water and sewer authority, private water and sewer company, or special tax district.

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Upon receiving the request, the recipient has 5 days to furnish a certificate of taxes, assessments and charges affecting the real estate specified in the request and collected by the entity issuing the certificate. The certificate will itemize the taxes, assessments and charges due and payable to the entity at the time of the request, and which constitute a lien on that parcel of the real estate. To the extent the amounts of the taxes and other charges are fixed and ascertainable, the certificate will indicate those amounts.

The bill provides a source of revenue for the municipality or other entity receiving a request and issuing a certificate because the requesting party is required to pay a fee in exchange for the certificate. The fee payable to a municipality receiving the request is twenty five dollars. The fee payable to any other entity receiving a request for a certificate is fifteen dollars.

The bill encourages the payment of outstanding taxes and other charges by promoting the disclosure of taxes, assessments and charges that are due and payable, as well as those that are delinquent. To the extent that the seller of a property, or the borrower in a refinance, owes back taxes, water or sewer use charges, for example, the upcoming closing of the transaction is an opportune time to satisfy these obligations. First, the seller is liable to pay the outstanding charge, second, the proceeds of the sale or the financing of the property can provide some or all of funds needed to bring the payments current.

The issuance of a certificate does not prevent the issuing entity from pursuing the party who was the owner of the property at the time the tax, assessment or charge first became effective against the property. The issuance of the certificate will, however, estop the issuing entity from pursuing any other person for any tax, assessment or charge that is not otherwise disclosed in the certificate. The bill also authorizes the recording of the certificate.

Finally, the bill provides a suggested form of the certificate that will be issued by a municipal tax collector. The certificate issued by other entities will be on forms of their choosing.

CATIC and the Connecticut Title Association respectfully advocate the passage of this bill. The proposed law benefits purchasers, lenders, title insurance companies and any other party that needs reliable information about the taxes, assessments or charges affecting real property. The law also benefits the issuer of the certificate, because it provides for the fee in exchange for each certificate issued. In cases involving a purchase transaction in Hartford, for example, the attorney for the purchaser will need a certificate from the municipal tax collector, as well as one from the Metropolitan District. The law will provide an additional benefit to municipalities and other issuing entities because the disclosure of unpaid taxes, assessments and charges prior to a contemplated sale or financing of the real estate identified in the certificate will result in the payment of any delinquent taxes or other charges prior to or at the time of the transaction. Encouraging the satisfaction of outstanding charges will facilitate the collection of revenue without having to resort to costly and time consuming collection efforts.